

REMARKS

Claims 1, 4-14, 16, 17, 19 and 23 are pending. Claims 4-14 and 16 are withdrawn. Claims 1, 17, 19 and 23 are rejected. Claim 1 is amended.

Applicants respectfully request entry of this Amendment because it is believed to place the application in complete condition for allowance, and because the Examiner did not specifically cite the present structures against Applicants' claims in the previous rejection. Thus, Applicants assert that the present rejection should not be made final. Notwithstanding this assertion, and solely to facilitate prosecution but still traversing the finality, Applicants herein submit a Request for Continued Examination at the suggestion of Supervisory Examiner Hartley, pursuant to his conversation with Applicants' undersigned representative on April 7, 2008.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 1, 17, 19 and 23 are rejected under 35 U.S.C. §103(a) as obvious over Licha (WO98/47538 as translated in U.S. 6,534,041 B1).

The Examiner's position is that it would have been obvious "that the intermediate of Licha's formula 1 necessarily contains the same R⁵ substituent, i.e. -CH₂(CH₂-O-CH₂)_c-CH₂-OH in place of the C₁₋₄ sulfoalkyl chain (formula 1) in order to generate the composition of formula II as the final product. The resulting -CH₂(CH₂-O-CH₂)_c-CH₂-OH, etc. substituted 2,3,3-trimethyl-4,5-benzo-3H-indolene intermediates of Licha encompass the compositions of the instant claims, i.e. -CH₂(CH₂-O-CH₂)_c-CH₂-OH substituted."

Applicants have amended claim 1 to delete -CH₂(CH₂-O-CH₂)_c-CH₂-OH from Y1. Thus, Applicants believe the rejection is overcome and respectfully request its withdrawal.

Claims 1, 17, 19 and 23 are rejected under 35 U.S.C. §103(a) as obvious over Achilefu (U.S. Patent No. 6,180,085).

The Examiner's position is that it would have been obvious "that the intermediate of '085's formula 2 (2,3,3-trimethyl-4,5-benzo-3H-indolene) must be substituted with the same Y¹, such as -(CH₂)_g-N(R¹⁴)-(CH₂)_h-CO₂H, etc. in place of the (A)_nR group (formula 2) in order to generate the final composition of formula 1. The -(CH₂)_g-N(R¹⁴)-(CH₂)_h-CO₂H, etc. substituted 2,3,3-trimethyl-4,5-benzo-3H-indolene composition intermediates of Achilefu et al. encompass the compositions of the instant claims."

Applicants have amended claim 1 to limit T, in the Y1 structure -(CH₂)_n-N(R_a)-(CH₂)_i-CO₂T, to a negative charge. Thus, Applicants believe the rejection is overcome and respectfully request its withdrawal.

CONCLUSION

Applicants believe the application is in complete condition for allowance. Applicants respectfully request that the withdrawn method claims, which Applicants will amend to conform with amended composition claims, be rejoined with the composition claims.

Other than the fee to Request Continued Examination, no fees are believed due but, if deemed necessary, the Office is authorized to charge them to Deposit Account No. 20-0809. The Examiner is invited to contact Applicants' representative with questions.

Respectfully submitted,
THOMPSON HINE, LLP
/Beverly A. Lyman/

Beverly A. Lyman, Ph.D.
Reg. No. 41,961

312 Walnut Street
14th Floor
Cincinnati OH 45202
513 352 6596
513 241 4771 facsimile
689156.1